

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

OCTOBER TERM, 1904.

No. 1441.

No. 3, SPECIAL CALENDAR.

WILLIAM FARR, APPELLANT,

vs.

AULICK PALMER, UNITED STATES MARSHAL IN AND
FOR THE DISTRICT OF COLUMBIA.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia.

WILLIAM FARR, Appellant,
vs.
AULICK PALMER, United States Marshal in and for the
District of Columbia. } No. 1441.

a Supreme Court of the District of Columbia.

In re Petition of WILLIAM FARR for a Writ of *Habeas Corpus*. No
355. *Habeas Corpus*.

UNITED STATES OF AMERICA, } ss :
District of Columbia,

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:—

1 *Petition.*

Filed November 30, 1903. J. R. Young, Clerk.

In the Supreme Court of the District of Columbia.

In re Petition of WILLIAM FARR for a Writ of *Habeas Corpus*. No
355. *Habeas Corpus*.

To the Honorable Harry M. Clabaugh, chief justice of the supreme court of the District of Columbia:

Your petitioner, William Farr, respectfully represents to the court that he is unlawfully restrained of his liberty by the Honorable Aulick Palmer, the United States marshal for the District of Columbia, upon a writ of commitment issued by Anson S. Taylor, Esquire, one of the United States commissioners of this honorable court in and for the District of Columbia bearing date the 30th day of November, 1903, to answer an indictment pending against your petitioner in the circuit court of the United States for the middle district of Tennessee.

Your petitioner further represents that the proceedings before the

commissioner which resulted in the issue of said order of commitment were instituted before said commissioner upon a copy of an indictment alleged to have been found by the grand jurors for the United States of America in and for the middle district of Tennessee in attendance upon the circuit court of the United States for said district and which said indictment is alleged to be of record, in that court, charging your petitioner with having fraudulently devised a scheme and artifice to defraud one Will A. Dietrich and

2 other persons to said grand jurors unknown, which indictment purports to be founded upon section 5480 of the Revised

Statutes of the United States as amended by the act of Congress of March 2nd, 1899, (25 Stats. at Large 873 1 Supplement 694); that upon the presentation of the copy of said indictment to said commissioner he issued his warrant for the arrest of your petitioner, and he was thereupon arrested and gave bail to appear from time to time before the said commissioner until said matter was disposed of; that on the 16th & 17th days of November, 1903, an examination took place before said commissioner upon said charge against your petitioner contained in said indictment, and at said examination the United States presented no evidence to substantiate said charge against your petitioner, except a copy of said indictment. The alleged fraudulent scheme attempted to be set out in said indictment is alleged to be the issuing by the defendant as the dean of the Nashville College of Law and the Nashville College, of honorary degrees and diplomas to various individuals without any authority in law, and it is especially alleged in said indictment that the said Nashville College of Law and Nashville College had no charters or authority in law to issue such diplomas. Your petitioner alleges the fact to be that both said institutions were and are regularly chartered by the State of Tennessee, and that the said charters were at the time of the alleged finding of said indictment and still are in full force and effect, and that the said institutions thereby had and have a legal right and authority to confer degrees and issue diplomas. Your petitioner presented properly certified copies of said charters to the commissioner and asked that he consider the same upon said hearing, but that said commissioner refused

3 to receive or consider the copies upon said hearing.

Your petitioner further represents to the court that said indictment is invalid and of no force or effect and did not justify the commissioner in making the order committing your petitioner to answer said indictment, and was and is not sufficient, and that said order of commitment is illegal, and the restraint of your petitioner thereunder is in violation of the Constitution and laws of the United States for the following reasons, to wit:

1st. Because, as he is advised and believes, it does not sufficiently appear in and by said charge in said indictment that the alleged offense was committed within the jurisdiction of the United States circuit court for the middle district of Tennessee.

2nd. Because it is not therein sufficiently alleged as he is advised

and believes, that the defendant intended to use the United States post office establishment in execution of and as part of said alleged fraudulent scheme.

3rd. Because, as he is advised and believes, the matters alleged in said indictment are wholly insufficient to show any fraudulent scheme under the said section 5480 of the Revised Statutes of the United States, as amended as aforesaid.

4th. Because, as he is advised and believes, no crime or offense of any character under any law of the United States is charged in said indictment.

5th. Because the facts set forth in said indictment even if true, which he denies are wholly insufficient to make a *prima facie* case of the violation of any law of the United States by petitioner. A

4 copy of said indictment is filed herewith and asked to be read as part of this petition.

Your petitioner therefore represents to the court that he is unlawfully restrained of his liberty, and is entitled to be relieved therefrom by the writ of *habeas corpus*.

Your petitioner therefore prays:—that the writ of *habeas corpus* may be directed to issue to bring your petitioner before your honor that the cause of his detention may be inquired into as provided by law, and that upon such inquiry being made your petitioner may be discharged from said unlawful detention and imprisonment.

WILLIAM FARR.

COLE & DONALDSON,
Att'ys for Petitioner.

DISTRICT OF COLUMBIA, *To wit:*

William Farr, being first duly sworn, deposes and says that he is the petitioner named in the foregoing petition by him subscribed; that he has read said petition and knows the contents thereof, and that the statements therein made of his own knowledge are true, and those therein stated upon information and belief, he believes to be true.

WILLIAM FARR.

Subscribed and sworn to before me this 30th day of November, A. D., 1903.

WALTER F. DONALDSON,
Notary Public, D. C.

[SEAL.]

Endorsed: Let the writ of *habeas corpus* issue as prayed in the within petition returnable forthwith before the undersigned. Harry M. Clabaugh, chief justice.

Indictment.

Filed December 2, 1903. J. R. Young, Clerk.

UNITED STATES OF AMERICA, }
Middle District of Tennessee. }

Circuit Court of the United States for said District, October Term,
 1903.

The grand jurors for the United States of America and district aforesaid, having been duly summoned, elected, impaneled, sworn and charged to inquire for the body of the district aforesaid, upon their oaths aforesaid, present:—

1 count. 5480 as amend-.

That William Farr, doing business under the name and style of William Farr, dean of the Nashville College of Law, on the 10th day of July, 1903, in the county of Davidson and district aforesaid, having then and there, to-wit, at the time and place last aforesaid and for some time previous to said date, unlawfully, knowingly and fraudulently devised a scheme and artifice to defraud one Will A. Dietrich, by inciting the said Will A. Dietrich to open communication with him, the said William Farr, by means of the post-office establishments of the said United States, and which said misuse of the post-office establishments of the United States was then and there a part of said scheme to defraud, by falsely pretending in and through certain advertisements, letter and circulars which said circulars and advertisements are too lengthy and voluminous, and otherwise unfit to be set forth in this indictment, which said letter was in substance and effect as follows:

6 President's office, Nashville College of Law, Nashville, Tennessee. William Farr, Ph. D., LL. D., dean.

NASHVILLE, TENN., *July 10th*, 1903.

Rev. Will A. Dietrich, Cleveland, O.

DEAR SIR: In accordance with a time-honored custom, the college will confer a title upon some worthy educator or jurist of your State, by bestowing

The honorary degree of doctor of laws, LL. D., and in harmony with the annual custom, established by the leading American and European colleges, after long continued usage, your name has been suggested as one of ability, morality and integrity, and worthy of this distinction, and upon the presentation of the proper record of

data, the title will be conferred at the coming meeting of the board of trustees.

The desire of the corporation is that this honorary distinction be conferred only upon one who may, in some way prove an honor to himself, an honor to his country, and an honor to the college. There are no fees attached, as it is purely honorary, except the cost of the issuance of the diploma, and engrossing name in same. The college diploma bears a fac-simile of the corporate and State seal, is lithographed upon parchment, carefully prepared sheepskin, suitable to frame and place in the home or office, and is a testimonial of efficiency.

Please fill out the enclosed blank, record of data, and return to this office for filing purposes to be kept in the records of the college for future reference, enclosing check for the incidental fee to cover expense of the issuance of the diploma and engrossing your name in same and it will be placed to your credit upon the books of the college, and if for any cause the title be not conferred, the incidental fee will be returned to you by the corporation. We desire to call your attention to the two great aims of the college:

First. Our great aim is to educate and train future lawyers. We study the law. The law is our chief text. All our studies encircle the law. We aim to make its *principals* plain, its doctrine luminous, and to furnish the best methods for its exposition, explanation and illustration. We teach both the science and practice of law and equity.

We aim to send forth graduates trained in the law, graduates who know the law and are equipped with the best methods of its interpretation and can explain its principles plainly in the light of modern decisions; in short, our aim is to send forth lawyers—men and women versed in the law. Our courses of study are broad; our work is thorough.

Second. Our motto is that, we shall pass through this world but once, and therefore, any good thing that we can do, or any kindness that we can bestow upon a truly worthy one let us do it now, let us not defer it, nor neglect it, for we shall not pass this way again.

Extending to you personally, and on behalf of the college, our earnest congratulations as a co-worker in the domain of the great profession, believe me, my dear sir,

Faithfully yours,

WM. FARR, *Dean*.

R. S. V. P.

8 P. S.—The meeting of the board of trustee will be held in about ten days and your record of data should be received in advance of that time. You will be notified of the action of the board and if elected to a degree, your diploma will be expressed to you, otherwise, incidental fee returned.

Which said letter the said William Farr at the city of Nashville, in the district aforesaid, on the 10th day of July, 1903, together with said advertisements and circulars aforesaid, did deposit and cause to be deposited in the mails of the United States for mailing and delivery to the said Will A. Dietrich, at Cleveland, Ohio, to whom same was addressed as aforesaid; he, the said William Farr then and there at the time and place aforesaid by said letter and advertisements and circulars so as aforesaid, mailed to the said Will A. Dietrich mailed the same with the intent of representing to said person that there had been established at Nashville, Tennessee, a law college by the name of "The Nashville College of Law" for the matriculation and graduation of law students and the conferring of degrees with the following officers, to-wit:

H. J. Corbett, chancellor of the college.

William Farr, president and *ex-officio* dean.

A. G. Breland, secretary of the board of trustees.

R. K. Walton, vice president, of the faculty.

H. J. Baker, Jr., secretary of the faculty of law.

T. A. Crow, trustee of the college.

And that said college of law was a *bona fide* and reputable institution of learning empowered to confer regular and honorary degrees, and duly empowered and vested with all the rights, privileges, prerogatives and immunities, pertaining to or belonging to

9 American colleges and universities, and further representing thereby and therein, that said board of trustees, met in regular and adjourned meetings, and acted as such officers, and trustees,

upon matters connected with the said Nashville College of Law, and particularly passed upon the conferring of honorary degrees on persons selected for that purpose who furnished for the use and guidance of the said board of trustees, record of data, from which data, said board of trustees acted, and were guided in the conferring or withholding of said honorary degrees, and further representing by and in said letter, circulars, and advertisements, aforesaid, that there were no fees attached to the obtaining said honorary degree, (which might be conferred by said board of trustees) except the cost of the issuance of a diploma, which was fixed at the sum of ten dollars; when in truth and in fact, he the said William Farr then and there well knew, that the representations, so as aforesaid made in said letter, circulars and advertisements aforesaid, were false and fraudulent, in this, that said Nashville College of Law was not then and there a *bona fide* institution, for the education and graduation of students of law as set out in said letter, circulars, and advertisements, and did not have such chancellor, of the college, and did not then and there have the aforesaid officers, above set out and did not then and there have a board of trustees, as represented and did not hold meetings of the board of trustees, to act upon the conferring of honorary degrees, as represented, to said Will A. Dietrich in said letter and advertisements and did not act upon the record of data required to be furnished by the said Will A. Dietrich, as called for

10 in said letter, circulars, and advertisements, so as aforesaid mailed, to the said Will A. Dietrich, by the said William Farr, in furtherance of said scheme and artifice to defraud; and said diploma and honorary degree was bogus in this, that said board of trustees never acted on the name of the said Will. A. Dietrich, and said Dietrich never furnished any data upon which a degree could be predicated, and said diploma was not parchment, as alleged in said letter and did not cost the sum of ten dollars but cost a much less sum, the exact sum being to the grand jurors unknown, all of which allegations contained in said letter, circulars and advertisements, were made and used by him the said William Farr, with the intent and purpose to deceive and cheat the said Will. A. Dietrich, out of a large sum of money, to wit, the sum of ten dollars, for said bogus degree and diploma.

And the grand jurors aforesaid, upon their oath aforesaid do say that the said William Farr did unlawfully, and knowingly, and wrongfully, then and there to wit, at Nashville, aforesaid, and in the execution of said artifice and scheme and misusing the post office establishment of the United States, deposit and mail and cause to be mailed in the post office at said Nashville on the 10th day of July 1903, the aforesaid letter, circulars, and advertisements, and in further pursuance of said scheme and artifice, and misusing the said post-office establishment of the said United States, the said William Farr after said 10th day of July 1903, the exact day being to the grand jurors unknown, did take from the said post-office at Nashville, Tennessee, a certain letter which had theretofore been mailed by said Will A. Dietrich, at Cleveland, Ohio, addressed to said Wil-

11 liam Farr, at Nashville Tenn. in reply to said letter and advertisements, sent to him, the said Will. A. Dietrich, which letter contained a money order for the sum of and value of ten dollars, a more particular description of which said letter is unknown and therefore not known, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

2nd count. 5480 as amended.

And the grand jurors aforesaid, upon their oath aforesaid do further present:—

That William Farr, on, to wit, on or about the 1 day of June 1903, and for some time prior to said date, the exact day and days being to the grand jurors unknown, in the county of Davidson and district aforesaid, did then and there unlawfully and knowingly and fraudulently, devise a scheme and artifice to defraud various persons, whose names are to the grand jurors unknown, said scheme and artifice to be effected by inciting the said various persons, whose names are to the grand jurors aforesaid unknown, to open communication with him the said William Farr by means of the post office establishment of the United States, and which said mis-use of

the post office establishment of the United States was then and there a part of said scheme to defraud, by falsely pretending in and through certain advertisements, letters and circulars, which said advertisements, letters and circulars, are too lengthy, voluminous, and otherwise unfit to be set forth in this indictment, that there had been established at Nashville, Tennessee a college of law for the matriculation and graduation of law students, under and

12 by the name of the "Nashville College of Law" and also under and by the name of the "The National College of Law"

and that said college was duly and legally chartered, under the laws of Tennessee and authorized to bestow the usual degrees, and honors, and *and* to issue and grant diplomas in evidence thereof, and is duly empowered and vested with all the rights, privileges, p-erogatives, and immunities appertaining or belonging to American colleges and universities, that the board of trustees held in Nashville, aforesaid in 1902, voted to increase the authorized capital stock of said college from ten thousand to twenty thousand dollars, to aid in erecting a law building, with every modern convenience, an adequate material equipment, and maintain its own office, lecture, library and recitation rooms for the accommodation of its officers and student body and to enable the faculty to enlarge the usefulness of the college by establishing additional departments in American law, jurisprudence and diplomacy, leading to advanced degrees of master of laws, doctor of civil laws and doctor of laws, and further falsely pretending in said letters, advertisements, and circulars that during the past five years the president of said college had matriculated 508 resident students and over five thousand correspondence students, that said college had distinguished itself as a southern college of law and notwithstanding the discouragements it had met and overcome one by one, it had built up an American college of law, national in character, and second to none in point of excellence, much to the chagrin of its adversaries; and further falsely pretending therein that said college of law aforesaid was a reputable institution and had a chancellor of the college, a president and dean, a secretary of the board of trustees, vice president of the

13 faculty, secretary of the faculty of law, trustee of the college and a board of trustees, and falsely pretending to have a course of studies prescribed and set out for the junior and senior years, upon which various degrees were to be conferred upon students, who satisfactorily passed such studies, and that honorary title of master of laws, doctor of civil laws, and doctor of laws, would, under conditions, prescribed for graduates of said college be conferred upon students, and upon others who have had an equivalent training elsewhere than in said college and have proven their ability at the bar or in extended research and that such persons must hold the bachelor or master's degree in arts, science of philosophy from an approved college or university or must have written or published a book, thesis or other contribution to literature, of such merit as to be worthy of special distinction, and that record of data for such

honorary degrees must be filed with the president of the college or dean of the faculty, before the meeting of the board of trustees, and, (unless waived for good cause shown) be endorsed by a person holding the degree sought or one of higher rank, or signed by some jurist, statesman, doctor, minister, educator, or other reliable person of known ability, and integrity, and in all cases an incidental fee of ten dollars should accompany the record of data to cover the cost of the issuance of the diploma and engrossing the name in same, and that no fee was to be paid except the cost of said diploma which was to be of parchment or sheepskin and to cost the sum of ten dollars; and that before the granting of such diplomas and degrees aforesaid the name and names of the person and persons who were selected for distinction were laid before the said board of trustees, together with said record of data and endorsement as aforesaid, and

14 the same were granted and bestowed by said board of trustees at its regular annual meeting or at an adjourned meeting of said board of trustees, thereby falsely pretending that said honorary degrees were of great value by reason of the high standing of said Nashville College of Law and said National College of Law and the care exercised to confer same upon none save those distinguished for learning and ability and falsely pretending that no fee was charged for said degree save the cost of diploma and the engrossing of the name thereon.

When in truth and fact, he, the said William Farr then and there well knew that the representations, so as aforesaid made in said letters, circulars and advertisements were false and fraudulent in this, that said Nashville College of Law and said National College of Law were not then and there a *bona fide* college of law as represented for the graduation, education and learning of students, that its charter and charters were false and illegal; and that it did not then and there have a *bona fide* board of trustees who met in annual and adjourned sessions to act upon matters connected with said college and pass upon degrees and honorary titles as represented by said William Farr in said circulars, letters and advertisements; that said prescribed courses of studies as set forth were not followed and pursued and mastered by said students of said college he then and there well knew said statements so as aforesaid made to be false and that the sum of twenty thousand dollars were not voted by said board of trustees for the purpose of erecting suitable buildings and well knew that no buildings were to be erected and that the increasing of the capital stock from, ten to twenty thousand dollars was only a part of said scheme and artifice to defraud by inducing persons to believe that said college was a reputable institution; there was no meeting of the board of trustees to pass upon conferring honorary titles and

15 degrees and no record of data was required of persons who received such titles and degrees but same were granted upon the payment of ten dollars without regard to the fitness, learning or ability of the person so receiving same, said diplomas did not cost

the sum of ten dollars as alleged by said William Farr in said letters, advertisements and circulars, but said sum was fraudulently collected and said diplomas cost a much less sum than ten dollars, the exact sum being to the grand jurors unknown, and he, said William Farr then and there well knew said statement, so as aforesaid contained in said letters, circulars and advertisements, to the effect that said college had during five years past nearly six thousand students matriculated at said college and that said college was national in character and second to none in point of excellence, and that said college then and there had the officers and board of trustees as set out in said letters, circulars and advertisements, were all false and fraudulent and were made with intent to carry out said scheme and artifice and induce persons whose names are to the grand jurors unknown to send said William Farr large sums of money through and by the mails of the said United States for said bogus and worthless honorary degrees and titles and he well knew that said college was not a reputable institution; but said representations were unlawfully and knowingly made with intent to carry out said artifice and scheme to defraud through and by the misuse of the post-office establishment of the United States;

And the grand jurors aforesaid, upon their oath aforesaid do say, that William Farr did wrongfully and unlawfully, then and there, and in the execution of said artifice and scheme and misusing the post-office establishment of the United States, receive and take from the post-office in Nashville, Tennessee, various letters addressed to

16 William Farr, Nashville College of Law, National College of Law and certain other names to the grand jurors unknown (a more particular description of said letters being to the grand jurors unknown) as mailed by said various persons, whose names are to the grand jurors unknown, at various post-offices in the United States, the names of said post-offices being to the grand jurors unknown, and did then and there deposit in the post-office at Nashville a large number of letters, circulars and advertisements, addressed to persons whose names are unknown, a more particular description of which said letters, circulars and advertisements are to the grand jurors unknown, said letters, circulars and advertisements then and there directed to various post-offices in the United States, the names of said post-offices being to the grand jurors unknown; contrary to the form of the statute in such case made and provided; and against the peace and dignity of the United States.

A. M. TILLMAN,
United States Attorney.

I, H. M. Doak, hereby certify that the foregoing is a true, perfect and complete copy of the indictment in the above-styled cause of The United States of America against William Farr, as the same is on file in my office. In witness whereof I have hereunto signed my name and affixed the seal of the court, at my office, in Nashville,

State and district above set out, this the 24th day of October, A. D. 1903.

[SEAL.]

H. M. DOAK, *Clerk*,
By E. L. DOAK,
Deputy Clerk of the United States Circuit Court
for the Middle District of Tennessee.

17 Endorsed: Crim. No. 24,035. United States circuit court, middle district of Tenn. The United States *vs.* William Farr. Filed, Oct. 22, 1903. H. M. Doak, clerk, by E. L. Doak, D. C. Indictment for 5480 as am. Witnesses: Jno. W. Morton, H. C. Corbitt, Will A. Dietrick. A true bill. J. B. Fuson, foreman grand jury. Filed, October 22nd. 1903. — — —, clerk. A. M. Tillman, U. S. attorney.

18

Writ of Habeas Corpus.

Issued November 30, 1903.

In the Supreme Court of the District of Columbia.

In the Matter of the Petition for Writ of *Habeas Corpus* for WILLIAM FARR. No. 355.

The President of the United States to Aulick Palmer, U. S. marshal,
Greeting:

You are hereby commanded to have the body of William Farr, detained under your custody, as it is said, together with the day and cause of his being taken and detained, by whatever name he may be called in the same, before the Honorable Harry M. Clabaugh, chief justice of the supreme court of the District of Columbia, in circuit court No. 2, United States court-house, city of Washington, (immediately), after the receipt of this writ, to do and receive whatever shall then and there be considered of in his behalf, and have then and there this writ.

Witness, the Honorable Harry M. Clabaugh, chief justice of said court, the 30th day of Nov. A. D. 1903.

[SEAL.]

J. R. YOUNG, *Clerk*,
By F. W. SMITH,
Assistant Clerk.

Return of Respondent.

Filed Nov. 30, 1903.

In the Supreme Court of the District of Columbia.

In re Petition of WILLIAM FARR for a Writ of *Habeas Corpus*.

I accept service of the within writ, and for return thereto present before the Honorable Harry M. Clabaugh, chief justice of the supreme court of the District of Columbia, the body of the petitioner, William Farr, and the order of Anson S. Taylor, one of the United States commissioners for the District of Columbia, by virtue of which the said petitioner is in my custody.

AULICK PALMER, *Marshal*.
S.

Order for Commitment.

Filed November 30, 1903.

Before Anson S. Taylor, U. S. Commissioner.

UNITED STATES	} No. 47.
vs.	
WILLIAM FARR.	

It appearing to me that the offenses herein complained of have been committed, and there being sufficient evidence of the identity of the defendant William Farr, and to believe him guilty of the said offenses, I order that he be held to answer the same; and that he be admitted to bail in the sum of two thousand five hundred dollars for his appearance for trial upon said charges before the United States circuit court for the middle district of Tennessee on third Monday in April in the year of our Lord one thousand nine hundred and four; and that he be committed to the custody of the United States marshal for the District of Columbia until such bail be given, and in default thereof, to await the issuance of a warrant for his removal to the middle district of Tennessee aforesaid, where his trial is to be had, by a judge of the supreme court of the District of Columbia.

Witness my hand and commissioner's seal this 30th day of November A. D. 1903.

[SEAL.]

A. S. TAYLOR,
U. S. Commissioner.

21

Amended Return.

Filed January 22, 1904.

In the Supreme Court of the District of Columbia.

In the Matter of WILLIAM FARR. No. 355. *Habeas Corpus.*

To the honorable the chief justice of the supreme court of the District of Columbia :

Aulick Palmer, United States marshal for the District of Columbia, to whom the writ in the above entitled cause is directed, has now here before the court the body of the said William Farr in said writ named as thereby commanded.

And respondent certifies that the cause of the detention of the said William Farr is a warrant of commitment directed to him and issued by A. S. Taylor, Esquire, United States commissioner for the District of Columbia, on the 30th day of November, A. D. 1903, a copy of which said warrant is hereto attached marked Exhibit A and made part hereof.

Respondent further certifies that the proceedings and evidence before said commissioner upon which the said warrant of commitment was made are filed in this court and are No. 24,035 on the criminal docket thereof, and respondent refers to all of said proceedings and papers so filed and prays that they may be read and considered by this honorable court as a part of this return.

AULICK PALMER,
United States Marshal for the District of Columbia.

M. H. BEACH,
J. C. ADKINS,
Att'ys for Respondent.

22

EXHIBIT A.

Filed January 22, 1904.

UNITED STATES OF AMERICA, }
District of Columbia. }

The President of the United States of America to the marshal of the District of Columbia and to the keeper of the jail of the District of Columbia, Greeting :

Whereas, William Farr has been arrested upon the oath of William B. Smith, post office inspector, for having, on or about the 10th day of July 1903, in middle district of Tennessee, in violation of sec-

tion 5480 of the Revised Statutes of the United States, as amended, unlawfully, knowingly and fraudulently devised a scheme and artifice to defraud one Will A. Dietrick and various persons whose names are to affiant unknown, as is fully set forth in the affidavit of complaint.

And after an examination being this day had by me, it appearing to me upon the production of a certified copy of the indictment and admission of identity, that said offenses had been committed, and probable cause being shown to believe said William Farr had committed said offenses as charged, I have directed that said William Farr be held to bail in the sum of \$2500 to appear on the 3d Monday in April, A. D. 1904, before the circuit court of the United States for the middle district of Tennessee at Nashville, Tenn. and he having failed to give the required bail:

Now these are therefore, in the name and by the authority aforesaid, to command you, the said marshal, to commit the said William Farr to the custody of the keeper of said jail of the District of Columbia, and to leave with said jailer a certified copy of this writ, and

23 to command you, the keeper of said jail of said county, to receive the said William Farr prisoner of the United States of America, into your custody, in said jail, and him there safely to keep until *until* he be discharged by due course of law.

In witness whereof, I have hereto set my hand and seal at my office in said District, this 30th day of Nov. A. D. 1903.

[SEAL.]

A. S. TAYLOR,
*United States Commissioner for
said District of Columbia.*

Replication to Return of Respondent.

Filed January 22, 1904.

In the Supreme Court of the District of Columbia.

In re WILLIAM FARR, upon a Writ of Habeas Corpus.

And now comes Wm. Farr and for replication to the return of the respondent to said writ says that the warrant of commitment in the said return mentioned was based solely upon the indictment, a copy of which is referred to in said return, and the bench warrant issued by the United States circuit court for the middle district of Tennessee and the admission of his identity by the petitioner, and no other evidence whatever was introduced upon the hearing before the said commissioner, and that the matters set forth in the indictment are insufficient in law to support the said warrant.

WILLIAM FARR.

DISTRICT OF COLUMBIA, *To wit* :

24 William Farr being duly sworn says upon oath that the statements of the foregoing replication so far as stated upon his own knowledge are true and so far as stated upon information he believes them to be true.

WILLIAM FARR.

Subscribed and sworn to before me this 22nd day of January, 1904.

[SEAL.]

WALTER F. DONALDSON,
Notary Public, D. C.

Demurrer to Replication.

Filed January 22, 1904.

In the Supreme Court of the District of Columbia.

In the Matter of WILLIAM FARR. No. 355. *Habeas Corpus.*

The respondent says the petitioner's replication is bad in substance.

MORGAN H. BEACH,
JESSE C. ADKINS,
Att'ys for Respondent

Among the penalties to be argued in support of the foregoing demurrer are the following :

That this court cannot in this proceeding inquire into the sufficiency of the evidence before the commissioner upon which he issued his said warrant of commitment.

25

Affidavit of Defendant.

Filed January 22, 1904.

In the Supreme Court of the District of Columbia.

In re WILLIAM FARR. Criminal, No. 24035.

Upon an application for a warrant of transfer.

DISTRICT OF COLUMBIA, *To wit* :

William Farr being duly sworn says upon oath that he is the same William Farr mentioned in the copy of an indictment which he is informed is pending in the United States circuit court for the

middle district of Tennessee at Nashville, Tennessee; that his full Christian name given him by his parents is John William Farr, but that he has for some years last past been called William Farr by his intimate friends, and always in recent years has written his name that way for the reason above set forth; that he was born in the city of Washington in the District of Columbia; that when a small boy his parents removed from this District to Chicago, Illinois, and took him there where he grew up and resided continuously until the year 1898, when he went to Chattanooga, Tennessee, and became the dean of the law department of Grant university there situated, where he remained one year, and then resigned his position there and went to Nashville, Tennessee, and soon afterwards became the dean of the Nashville College of Law, and remained at Nashville until about the first of last October, when he left there and
26 removed to the city of Washington and took up his permanent residence here where he now resides; that he is a graduate of the Illinois College of Law, situated in the city of Chicago, of the class of 1898 and holds the degree of bachelor of laws from that institution; that a year after his graduation the same institution conferred upon him the degree of master of laws in view of his studies and services as dean of the law department of Grant university.

The affiant further says that the Nashville College of Law was chartered under the laws of Tennessee in the summer of the year 1899, and a certified copy of the charter from the proper office is filed with this affidavit marked "Exhibit A." Soon after the issuance of the charter the college was organized and had offices and lecture rooms in Nashville for a year, when this affiant resigned his position as dean and travelled for a year in the interests of the institution; with a view of establishing other departments of law in other States that Dr. Brodbeck was elected dean and was at Nashville the greater part of the year while affiant was away, but maintained no offices or lecture rooms during that period; all the students being transferred to the Omaha department of law for that year. That affiant returned to Nashville in the fall of 1901, and again become dean and opened the offices and lecture rooms of the institution and maintained them until the time he left there about the first of October as hereinbefore stated; that during the time that he was the dean of the institution at Nashville there were always more or less resident students until the close of the scholastic year in the spring of 1903, and during one year there were as many as one hundred and fifty; that the school was carried on on the double system of
27 lectures to and recitations by resident students and also by correspondence students; that four classes of resident students graduated from said Nashville College of Law during the period aforesaid and many were admitted to the bar of the State and Federal courts sitting in the city of Nashville, upon the diplomas issued to them by said Nashville College of Law. That the law of Tennessee at that time provided that any person holding a diploma

from any reputable law school, organized under the laws of the State, should be entitled to admission to the bar upon the diploma. Affiant also says that the said Nashville College of Law during the period aforesaid had a large number of correspondence students who graduated and were given diplomas. Affiant further says that during the whole period aforesaid the said Nashville College of Law had a board of directors, who acted as such, and that they did grant honorary degrees of doctor of laws to a number of persons, but never upon any one who did not seem from their learning, ability and standing to be entitled to it.

Affiant further says that he never made any misrepresentation in relation to the said Nashville College of Law or National College of Law, that he never made any representations as to either, except substantially such representations as are set forth in the letter embraced in said indictment; that all the diplomas issued to the students and to those upon whom honorary degrees were conferred were of parchment, and that he estimates that the cost of them, including material and labor, approximated ten dollars; that he never represented that they cost ten dollars. The only representation that he ever made in relation to them was that the fee for them to cover the estimated cost would be ten dollars.

28 Affiant further says that the National College of Law was incorporated on the 24th day of December, 1901, and he files herewith the original charter with the certificates of the secretary of state and other officers as required by the laws of Tennessee marked Exhibit "B." He further says that although the certificate of the register, whose duty it was to properly register the charter, certifies that all of the certificates were registered, he is informed and believes it to be true, that in spreading the charter upon the records in the county as required by the law the register omitted to copy in to the record the certificate of the secretary of state, which fact did not become known to this affiant until about a year afterwards when a suit was instituted for the purpose of declaring the charter void on account of the defect aforesaid, and affiant says that as a result of that suit in the chancery court in the city of Nashville, the chancellor as he is informed and believes did declare the charter void on that ground only. A copy of said charter is also filed herewith marked "Exhibit C." He was also advised by his counsel in Nashville that the judgment of that court was erroneous, but that the matter was not of sufficient importance to justify an appeal to the appellate court to have the error corrected. Affiant further says that no diploma was ever issued or granted by the National College of Law, its interest having been transferred to the Nashville College of Law. Affiant further says that the progressive methods of himself and his associates in the conduct of the affairs of the Nashville College of Law did not meet the approval, but on the contrary excited the jealousy of some people in Nashville, who

29 seemed to make it their particular business to interfere with the college and its prosperity, and endeavored to break it up and drive it out of existence. He believes that this indictment is the result of a feeling of animosity against him growing out of the circumstances aforesaid. Affiant further says that his chief and only desire and aim and that of his associates was to build up an efficient law school and to improve the methods of study, of which there was and is a great necessity especially in the Southern States, and that he never consciously misrepresented to any person either orally, by writing or in print sent through the mails of the United States, or otherwise, any facts or circumstances in relation to said college. Affiant further says that the Nashville College of Law during all the time aforesaid had a regular organized and efficient faculty. Affiant further says that the Nashville College of Law was a stock corporation and started with ten thousand dollars authorized capital stock nearly all of which was paid in cash, and subsequently the board of directors voted to increase the capital stock to twenty thousand dollars, approximately one thousand of which was paid.

WILLIAM FARR.

Subscribed and sworn to before me this 22nd. day of January, A. D. 1904.

[SEAL.]

WALTER F. DONALDSON,
Notary Public, D. C.

30

Order Sustaining Demurrer, &c.

Filed April 8, 1904.

In the Supreme Court of the District of Columbia.

In the Matter of WILLIAM FARR, Petitioner. No. 355. *Habeas Corpus.*

This cause coming on to be heard upon the petition for the writ of *habeas corpus*, the writ, the amended return, the replication, and the demurrer thereto, and having been argued by counsel and considered by the court, it is, by the court, this eighth day of April, A. D. 1904, adjudged and ordered that said demurrer be and it is hereby sustained, the writ of *habeas corpus* discharged, the petition dismissed, and the petitioner remanded to the custody of the marshal.

HARRY M. CLABAUGH,
Chief Justice.

From this order the petitioner in open court prays an appeal to the Court of Appeals of the District of Columbia, which is hereby

allowed, and the penalty of the bond for costs is fixed in the sum of one hundred dollars.

HARRY M. CLABAUGH,
Chief Justice.

31

Memorandum.

April 29, 1904.—Appeal bond filed.

Order for Transcript of Record.

Filed May 6, 1904.

In the Supreme Court of the District of Columbia.

In re WILLIAM FARR. *Habeas Corpus.* Case No. 355.

The clerk of the court will please prepare a transcript of the record in this cause to be used upon a hearing of the appeal in the Court of Appeals as follows, to wit:

1. Petition filed November 30th, 1903, and the order of the chief justice endorsed thereon.
2. Copy of the indictment filed with said petition.
3. Writ of *habeas corpus*.
4. Return filed November 30, 1903.
5. Amended return filed January 22, 1904.
6. Replication to the amended return.
7. Demurrer to the replication.
8. Affidavit of the petitioner filed January 22, 1904.
9. Order sustaining demurrer and remanding petitioner.

C. C. COLE,
Attorneys for the Petitioner.

32 Hon. Morgan H. Beach, United States attorney, District of Columbia.

DEAR SIR: I have this day filed with the clerk of the supreme court of the District the foregoing order for a transcript of record in the above entitled cause to be used in the Court of Appeals. I think I have embraced everything in the order, but if I have omitted anything I will be glad to add it upon your suggestion.

C. C. COLE,
Attorneys for the Petitioner.

33 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, } ss :
District of Columbia,

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 32, inclusive, to be a true and correct transcript of the record, as per directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 355, *habeas corpus*, *In re* petition of William Farr for a writ *habeas corpus*, as the same remains upon the files and of record in said court.

In testimony whereof, I hereunto subscribe
Seal Supreme Court my name and affix the seal of said court, at
of the District of the city of Washington, in said District, this
Columbia. 23rd day of May, A. D. 1904.

JOHN R. YOUNG, *Clerk*.

Endorsed on cover: District of Columbia supreme court. No. 1441.
William Farr, appellant, vs. Aulick Palmer, United States marshal
in and for the District of Columbia. Court of Appeals, District of
Columbia. Filed Jun- 15, 1904. Henry W. Hodges, clerk.

